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January 9, 2013

**By First Class Mail**

Honorable Kenneth M. Karas  
United States District Judge  
United States Courthouse  
300 Quarropas Street  
White Plains, New York 10601

**Re:** Jeffrey Deskovic v. City of Peekskill, Putnam County, Westchester County, David Levine,  
Thomas McIntyre, Walter Brovarski, Eugene Tumolo, John and Jane Doe Supervisors, Daniel  
Stephens, Louis Roh, Millard Hyland, Peter Insero and Legal Aid Society of Westchester County,  
Docket No. 07 Civ. 8150 (KMK) (GAY)  
Our File No. 12920.00001

Dear Judge Karas:

We are counsel for the City of Peekskill, David Levine and Thomas McIntyre (the "Peekskill Defendants"). We are writing in connection with the pre-sentence investigation report of plaintiff Jeffrey Deskovic, which this court is currently holding *in camera*.

In the Court's discovery order dated November 28, 2012 (Docket Entry #542), the Court denied the Peekskill Defendants' request to release the pre-sentence investigation report stating that the request must be submitted in the first instance to the sentencing court. *Id.* at p.2.

Thereafter, and with the consent of Mr. Deskovic's attorney, we submitted a request for release of the report, and proposed order, to the Supreme Court of the State of New York, Westchester County. We recently received a copy of the Order which was executed by Justice Nicolas Colabella, the same Justice who sentenced Mr. Deskovic on January 18, 1991. The order provides that a copy of the pre-sentence investigation report "may be disclosed to attorneys for record for Jeffrey Deskovic and the City of Peekskill in the federal action entitled *Deskovic v. City of Peekskill, et al.*, 08 Civ. 8150 (KMK), to be used solely in connection with the prosecution and defense of the claims in said action."

We enclose a copy of Justice Colabella's order herewith and renew our request that this Court release a copy of Mr. Deskovic's pre-sentence investigation report.

3 Gonnell Drive • White Plains, NY 10604 • p 914.323.7000 • f 914.323.7001

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Respectfully submitted,

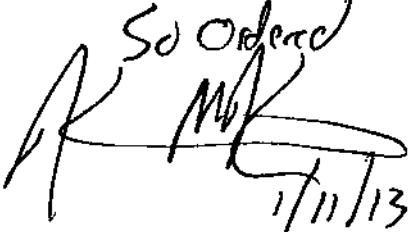
WILSON, ELSER, MOSKOWITZ, EDELMAN & DICKER LLP

Pursuant to Justice Crotkella's  
 order, the Court will release Mr.  
 Deskovic's pre-sentencing investigation  
 report to the parties.

  
 Lalit K. Loomba

Enclosures

Cc (w/encl.): (via -email):  
 All counsel of record

  
 So Ordered  
 RMK  
 1/11/13

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<p>Harwood Lloyd LLC    Attorneys for Dan Stephens and Putnam County    130 Main Street    Hackensack, NJ 07601    Attn: Robert Delicate, Esq.    Tel: (201) 487-1080    Fax: (201) 387-4758    Attn: Robert Delicate, Esq.  <a href="mailto:rdelicate@harwoodlloyd.com">rdelicate@harwoodlloyd.com</a></p>	<p>Stillman, Friedman &amp; Schechtman, P.C.    Attorneys for Eugene Tumolo    425 Park Avenue    New York, NY 10022    Attn: James Mitchell, Esq.  <a href="mailto:jmitchell@stillmanfriedman.com">jmitchell@stillmanfriedman.com</a></p>
<p>Gelardi &amp; Randazzo, LLP    Attorneys for Putnam County    800 Westchester Avenue, Suite S-608    Rye Brook, NY 10573    Attn: Vincent Gelardi, Esq.  <a href="mailto:vg@vincentgelardi.com">vg@vincentgelardi.com</a></p>	

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At a Term of the Supreme Court of the  
State of New York, County of Westchester  
Held at the Courthouse, 111 Dr. Martin  
Luther King, Jr. Blvd., White Plains, New  
York on the 31 day of December 2012.

P R E S E N T:

HONORABLE NICHOLAS COLABELLA  
JUSTICE OF THE SUPREME COURT

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF WESTCHESTER

----- X -----

THE PEOPLE OF THE STATE OF NEW YORK

- against -

JEFFREY DESKOVIC

ORDER

Indictment No.  
90-0192

Defendant.

----- X -----

WHEREAS Jeffrey Deskovic was convicted on charges of criminal possession of a weapon, rape and murder in December 1990 and sentenced in January 1991 to fifteen years to life imprisonment; and

WHEREAS in 2006, Mr. Deskovic's conviction was vacated and the underlying indictment (No. 90-0192) was dismissed; and

WHEREAS, Mr. Deskovic thereafter commenced a civil action in federal court seeking money damages for alleged violations of his constitutional rights, *Deskovic v. City of Peekskill, et al.*, 07 Civ. 8150 (KMK) (the "Federal Action"); and

WHEREAS in connection with discovery in the Federal Action a copy of Mr. Deskovic's pre-sentence investigation report that was prepared in connection with his sentencing in January 1991 was produced by the N.Y.S. Department of Corrections to the Hon. Kenneth Karas for *in camera* review; and

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WHEREAS, Judge Karas will not review the pre-sentence report or consider whether it should be disclosed to the parties in the Federal Action without the sentencing court, i.e., this Court, having first issued an order, pursuant to Section 390.50 of the Criminal Procedure Law, authorizing disclosure of the pre-sentence report; and

WHEREAS, attorneys for the City of Peekskill have submitted an application to this Court seeking an Order, pursuant to CPL 390.50, authorizing disclosure of the pre-sentence investigation report; and no opposition being received, and

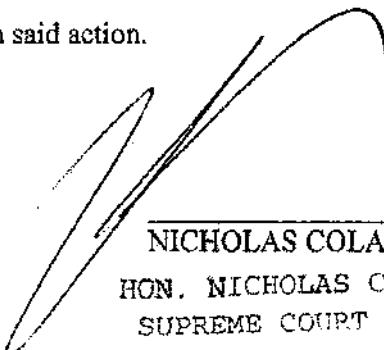
WHEREAS, Mr. Deskovic has consented to the application; and

WHEREAS, this Court believes that there is good cause for an order allowing disclosure of the pre-sentence investigation report.

IT IS HEREBY ORDERED as follows:

A copy of the pre-sentence investigation report prepared in connection with the sentence of Jeffrey Deskovic in January 1991 may be disclosed to attorneys of record for Jeffrey Deskovic and the City of Peekskill in the federal action entitled *Deskovic v. City of Peekskill, et al.*, 07 Civ. 8150 (KMK), to be used solely in connection with the prosecution and defense of the claims in said action.

DATED: White Plains, New York  
December 3, 2012



NICHOLAS COLABELLA, J.S.C.  
HON. NICHOLAS COLABELLA  
SUPREME COURT JUSTICE